

U.S. Department of Labor

Office of Federal Contract Compliance Programs
Chicago District Office
230 South Dearborn Street, Suite 434
Chicago, IL 60604



February 25, 2016

Edward Voci, Esq.
624 Lathrop Avenue
River Forest, Illinois 60305

Re: Joan Daniel v. Advocate Health Care (OFCCP Complaint No. I00198962)

Dear Mr. Voci,

As you requested, attached please find the Notice of Right-to-Sue in the above-referenced Complaint. With the issuance of this Notice, the OFCCP concludes the processing of this Complaint.

If you have any questions, you may contact Compliance Officer Shirley Thomas by telephone at 312/596-7076, or Assistant District Director Gail Johnson at 312/596-7012.

Sincerely,

A handwritten signature in blue ink that reads "Michael J. Thomas".

Michael J. Thomas
District Director

Enclosures

cc: Joan Daniel
309 East 70th Place
Chicago, Illinois 60657

Efrat R. Schulman, Esq.
Jones Day
77 West Wacker
Chicago, Illinois 60601

Julianne Bowman, District Director
U.S. Equal Employment Opportunity Commission, Chicago District Office

**Second Amended Complaint
Exhibit B**

2015-CV-11660

U.S. Department of Labor

Office of Federal Contract Compliance Programs
Chicago District Office
230 South Dearborn Street, Suite 434
Chicago, IL 60604



**NOTICE OF RIGHT-TO SUE UNDER TITLE I OF THE ADA OR TITLE VII OF THE
CIVIL RIGHTS ACT OF 1964:
Issued Upon Request**

**U.S. DEPARTMENT OF LABOR
OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS**

TO: Joan Daniel
309 East 70th Place
Chicago, Illinois 60657

FROM: OFCCP Chicago District Office
230 South Dearborn Street, Suite 434
Chicago, Illinois 60604

☐ On behalf of a person whose
identity is confidential
(29 CFR 1601.7(a))

OFCCP Representative
Michael J. Thomas,
District Director

Complaint Number: 100198962

TO THE COMPLAINANT: This is your NOTICE OF RIGHT-TO-SUE. It is issued at your request. If you intend to file a lawsuit against the employer named your complaint, YOU MUST DO SO WITHIN NINETY (90) CALENDAR DAYS OF YOUR RECEIPT OF THIS NOTICE. OTHERWISE, YOUR RIGHT TO SUE IS LOST.


- ☐ More than 180 calendar days have elapsed since you filed your complaint.
- ☒ Less than 180 calendar days have elapsed since you filed your complaint, but it has been determined that OFCCP will be unable to complete its processing within 180 calendar days from the date you filed your complaint. (Note: This reason is not acceptable to the courts within the District of Columbia.)
- ☒ With the issuance of this Notice of Right-to-Sue, OFCCP is terminating its processing of your complaint.
- ☐ OFCCP will continue to investigate the following allegations in your complaint which are uniquely within OFCCP jurisdiction.

Page 2 of 2

An information copy of this Notice has been sent to the below employer as named in your complaint.

Advocate Health Care, 3075 Highland, Suite 600, Downers Grove, Illinois 60515

On behalf of the United States Department of Labor,


Michael J. Thomas
District Director


Date

Enclosures: Information Related to Filing Suit under Title VII and the ADA;
Copy of Complaint

cc: Edward Voci, Esq. (Complainant's Attorney) (with attachments)
624 Lathrop Avenue
River Forest, Illinois 60305

Efrat R. Schulman, Esq. (Contractor's Attorney) (without Copy of Complaint)
Jones Day
77 West Wacker
Chicago, Illinois 60601

Julianne Bowman, District Director (with attachments)
U.S. Equal Employment Opportunity Commission, Chicago District Office

INFORMATION RELATED TO FILING SUIT UNDER TITLE VII AND TITLE I OF THE ADA

This information relates to filing suit in federal or state court under federal law. If you also plan to sue claiming violations of State law, please be aware that time limits and other provisions of State law may be shorter or more limited than those described below.

PRIVATE SUIT RIGHTS – Title VII of the Civil Rights Act of 1964, as amended (Title VII) or the Americans with Disabilities Act of 1990, as amended (ADA)

In order to pursue this matter further, you must file a lawsuit against the contractor(s) named in the complaint **within 90 calendar days of receipt of Notice of Right-to-Sue**. Once this 90-day period expires, your right to sue based on the complaint covered by this Notification will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notification.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in federal or state court is a matter for you to decide after talking to your attorney. Filing this Notification is not enough. You must file a “complaint” that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the complaint or, to the extent permitted by court decisions, matters like or related to the matters alleged in the complaint. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the contractor has its main office. If you have simple questions, you usually can get answers from the Clerk of the court where you are bringing suit, but do not expect them to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS – Equal Pay Act (EPA)

EPA suits must be filed in court within two years (three years for willful violations) of the alleged EPA underpayment; back pay due for violations that occurred **more than two years (three years for willful violations) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from July 1, 2003 to December 1, 2003, you should file suit before July 1, 2005 (not December 1, 2005) in order to recover unpaid wages due for July 2003. This EPA time limit is separate from the 90-day filing period under Title VII or the ADA referred to above. Therefore, if you also plan to sue under Title VII or the ADA, in addition to suing on the EPA claim, suit should be filed within the Title VII/ADA 90-day period and within the two or three year EPA back pay recovery period.

ATTORNEY REPRESENTATION – Title VII and the ADA

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, help you to obtain a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and

manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 calendar days.

ATTORNEY REFERRAL AND ASSISTANCE – All Statutes

If you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which the U.S. District Court can hear your case, you may contact an Office of Federal Contract Compliance Programs (OFCCP) representative at (312) 596-7045, who will coordinate with the Equal Employment Opportunity Commission (EEOC) to promptly obtain that information for you. If you need to inspect or obtain a copy of information in OFCCP's file, please request it promptly in writing and provide the OFCCP complaint number. If you file suit and want to review the complaint file, **please make your review request within six months of this Notice.** (Before filing suit, any request should be made within 90 calendar days of the date of the Notification of Results of Investigation.)

If you file suit, please send a copy of your Court complaint to:

U.S. Equal Employment Opportunity Commission
Chicago District Office
500 West Madison Street
Suite 2000
Chicago, Illinois 60661



Complaint Information Form

U.S. Department of Labor

Civil Rights Center

1. Complainant Information:

State your name and address:

Joan Daniel

362 East 70th Place, Chicago IL 60637

Your telephone number(s):

Home Number: **(312) 342-4105**

Work Number: **(312) 342-4105**

U.S. Dept of Labor
OFCCP - Chicago District Office

JAN 21 2016

2. Respondent Information:

Provide name and address of agency involved:

**Advocate Health Care
3075 Highland, suite 600
Downers Grove IL 60515**

**Jeffrey M. Teske
Advocate Health Care
3075 Highland, #600
Downers Grove IL 60525**

Telephone Number: **(630) 929 -5750**

Received

3. What is the most convenient time and place for us to contact you about this complaint? 9am - 5pm

4. To your best recollection on what date(s) did the discrimination take place?

Date of first occurrence: October 8, 2015

Date of most recent occurrence: Continuing from 10/8/15 and continuing from previous Complaint No. 100186974 filed in 2013 (copy of which is attached as "Exhibit A").

5. Have you ever attempted to resolve this complaint at the local Level? xx ☐ No.

a. Have you been provided with a final decision at the local level regarding your complaint?

☐ xxxNo

Date of final decision (if any)

b. Have 90 days elapsed since you filed or attempted to file this complaint at the local level?

☐ xxxNo

Date you filed or attempted to file your complaint at the local level.

6. Explain as briefly and clearly as possible what happened and how you were discriminated against. Indicate who was involved. Be sure to include how other persons were treated differently from you. Also attach any written material pertaining to your case.

In 2013 I filed a Complaint with USDOL against Respondent Advocate Health Care, No. 100186974 ("Exhibit A"). USDOL issued a Notification of Results of Investigation on September 30, 2015 (a copy of which is attached as "Exhibit B"). On October 8, 2015 Jeffrey M. Teske, Advocate Health Care Vice President & Chief Compliance Officer, handed me a "Memorandum of Concern" (a copy of which is attached as "Exhibit C"). Exhibit C is dated "September 28, 2015" and was later "gladly" changed by Jeffrey Teske to October 8, 2015. See, Jeffrey Teske email to me dated October 15, 2015 (a copy of which is attached as "Exhibit D"). The earlier date of Exhibit C was provided to cover up the retaliatory intent that motivated the issuance of Exhibit C.

IF YOUR COMPLAINT IS BASED ON VETERAN STATUS, CHECK ONE OR MORE OF THE FOLLOWING APPLICABLE BOX(ES):

- ☐ I was discharged or released from active duty on (enter date of discharge or release)
- ☐ I am a veteran who, while serving on active duty in the Armed Forces, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order 12985 (61 CFR 1209).
- ☐ I served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.
- ☐ I served on active duty for a period of more than 180 days, and was discharged or released with other than a dishonorable discharge, and the active duty occurred in the Republic of Vietnam between February 28, 1961, and May 7, 1975; or between August 5, 1964, and May 7, 1975 in all other cases.
- ☐ I was discharged or released from active duty for a service connected disability. If you check this box, submit medical information resulting in discharge or release with this form. (This information is available from your Master Military Record at the National Personnel Record Center, 9700 Page Boulevard, St. Louis, MO 63132.)

I am a veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs. Check one of the following:

- ☐ Disability rating of 30% or more
- ☐ Disability rating at 10% or 20% and have been officially determined to have a serious employment disability
- ☐ Disability rating, but neither a or b

Step 3: Check those actions which you believe the employer took or failed to take because of your race, color, religion, sex, national origin, disability or veteran status (more than one may be checked):

Issue(s):

- | | | | |
|---|---|--|---|
| <input type="checkbox"/> Hiring | <input checked="" type="checkbox"/> Promotion | <input type="checkbox"/> Job Assignment | <input type="checkbox"/> Sabbath Day Observance |
| <input type="checkbox"/> Termination | <input type="checkbox"/> Demotion | <input type="checkbox"/> Training and Apprenticeship | <input type="checkbox"/> Intimidation |
| <input type="checkbox"/> Layoff | <input type="checkbox"/> Seniority | <input type="checkbox"/> Segregated Facilities | <input type="checkbox"/> Other |
| <input type="checkbox"/> Recall | <input type="checkbox"/> Harassment | <input type="checkbox"/> Pregnancy Leave | |
| <input checked="" type="checkbox"/> Wages | <input type="checkbox"/> Job Benefits | <input type="checkbox"/> Accommodation to Disability | |

FOR EACH ISSUE, EXPLAIN IN YOUR STATEMENT BELOW HOW YOU WERE DISCRIMINATED AGAINST.

1. Do you know any other employees or applicants of your group who were treated in the same way (checked above) you allege you were?

☒ Yes ☐ No If yes, include their names in your statement below and explain how they were treated.

2. Do you know any other employees or applicants who are not of your group who were treated in the same way (checked above) you allege you were?

☐ Yes ☐ No If yes, include their names in your statement below and explain how they were treated.

THE COMPLAINT.

Describe in detail the alleged discriminatory/retaliatory act (s).

Please include:

- Why you believe the act(s) was because of your disability, veteran status, race, color, religion, sex, or national origin, and why you believe the act(s) was retaliation;
- Dates, places, names and titles of persons involved and witnesses, if any;
- What harm, if any, was caused to you or others with whom you work as a result of the alleged discriminatory act(s);
- What explanation, if any, was offered for the act(s) by the employer; and
- Any information you may have on federal contracts held by the employer.

If this is a complaint based on disability, describe the disability, your history of disability, or why you think the employer regarded you as disabled.

Case: 1:15-cv-11660 Document #: 36-2 Filed: 01/25/17 Page 8 of 11 PageID #: 231
7. To the best of your knowledge, any of the following Department of Labor programs were involved? (Check one)

☐ xxx Other: Office of Federal
Contract Compliance

8. Basis of Complaint: Which of the following best describes why you believe you were discriminated against: (Check)

xxxx Reprisal/Retaliation: For having filed a previous complaint with the USDOL and on September 30, 2015 having received a Right to Sue letter, Exhibit B. Please see #6 above.

9. Do you think the discrimination against you involved: (Check one)

xxx Your job or seeking employment?

If so, which of the following are involved?

- ☐ xxx Harassment
☐ xxx Wages
☐ xxx Job Classification
☐ xxx Promotion
☐ xxx Discipline/Reprimand
☐ xxx Intimidation/Reprisal
☐ Other: Specify

10. Why do you believe these events occurred?

See #6 above.

11. What other Information do you think is relevant to our investigation? My Rebuttal to Advocate Health Care and Jeffrey Teske's evaluation of my performance; my previously filed Complaint with USDOL and DOL's investigation; my previously filed Complaint with USDOL/OSHA on 11/6/2015 referenced as ECN12835 (a copy of which is attached as "Exhibit E"), and which by this reference is hereby incorporated into this Complaint.

12. If this complaint is resolved to your satisfaction, what remedies do you seek?

All remedies available under law including, but not limited to, cessation of retaliatory action taken against me, removal or rehabilitation of adverse performance evaluations, cessation of harassment against me, damages for emotional injury and mental distress, and my attorney fees.

13. Please list below any persons (witnesses, fellow employees, supervisors, or others) that we may contact for additional information to support or clarify your complaint:

<u>Name</u>	<u>Address</u>	<u>Telephone Number</u>
Letitia Patterson	7717 S. Vernon, Chicago IL 60619	773-490-4485
Ramona Jenkins-O'Neil		773-517-8797
Dorothy Mukijari	Kansas City, MO	913-748-6406
Regina Seabrooks		312-618-9504

14. Do you have an attorney?

xxx Yes

<u>Attorney Name</u>	<u>Address</u>	<u>Telephone Number</u>
Atty. Edward Voci	624 Lathrop Ave. River Forest IL 60305	708-256-8624

15. Have you filed a case or complaint with any of the following? Not with any of the agencies listed.

xxx ☐ I filed a Complaint on 11/6/2015 with USDOL/OSHA referenced as ECN12835.

- ☐ Civil Rights Division, U S Dept of Justice
- ☐ U S Equal Employment Opportunity Commission
- ☐ Federal or State court
- ☐ Your State or local Human Relations/Rights Commission

16. For each item checked in #15 above, please provide the following Information:

Agency: U.S. Dept. of Labor, Occupational Safety & Health Administration
Data Filed: 11/6/15
Case or Docket Number: ECN12835
Date of Trial or Hearing:
Location of agency or court: Chicago IL
Name of Investigator: Hilda Aguirre
Status of Case: I was told the complaint would not be accepted because it did not belong at OSHA
Comments:

17. Sign (Complaint NOT VALID unless signed)


Name: Joan Daniel

Date: December 17, 2015

NOTICE ABOUT INVESTIGATORY USES OF PERSONAL INFORMATION

Two Federal laws govern personal information to Federal agencies, including the Civil Rights Center (CRC), the Privacy Act of 1974, (5 U.S.C. 552) and the Freedom of Information Act (5 U.S.C. 552) or "FOIA". Please read the description of how these laws apply to information connected with your complaint. After reading this notice, please sign and return the consent agreement printed on the back of this notice, along with your complaint form.

The PRIVACY ACT protects individuals from misuse of personal information held by the Federal Government. The law applies to records that are kept and can be located by the individual's name, social security number, or other personal identification system. Anyone who submits information to CRC in connection with a discrimination complaint should know the following:

- CRC has been authorized to investigate complaints of discrimination on the basis of race, color, national origin, age, and handicap and in some programs on the basis of sex, religion, citizenship, and political affiliation or belief, in programs that receive Federal funds through the Department of Labor, CRC is also authorized to conduct reviews of federal funded program to assess their compliance with civil rights laws.
- Information that CRC collects is analyzed by authorized personnel with CRC. This information may include personnel or program participant records, and other personal information. CRC staff may want to reveal some of the personal information to individuals outside the office in order to verify facts related to the complaint, or to discover new facts which will help CRC determine whether the law has been violated. Such information could include, for example, the physical condition or age of a complainant. CRC may also have to reveal personal information to a person who submits a request for disclosure authorized by the Freedom of Information Act.
- Information submitted to CRC may also be revealed to persons outside of CRC because it is necessary in order to complete enforcement proceedings against a program that CRC finds to have violated the law or regulations. Such information could include, for example, the name, income, age, marital status or physical condition of the complainant.
- Any personal information you provide may be used only for the specific purpose for which it was requested. CRC requests personal information only for the purpose of carrying out authorized activities to enforce, and determine compliance with, civil rights laws and regulations. CRC will not release personal information to any person or organization unless the person who submitted the information gives written consent, or unless release is required by the Freedom of Information Act.
- No law requires that a complainant reveal personal information CRC, and no action will be taken against a person who denies CRC's request for personal information. However, if CRC cannot obtain the information needed to fully investigate the allegations in the complaint, CRC may close the case.
- Any person may ask for, and receive, copies of all personal materials CRC keeps in his or her file for investigatory use.

AS A POLICY, CRC DOES NOT REVEAL NAMES AND OTHER IDENTIFYING INFORMATION ABOUT INDIVIDUALS UNLESS IT IS NECESSARY TO COMPLETE INVESTIGATION OR ENFORCEMENT ACTIVITIES AGAINST A PROGRAM WHICH HAS VIOLATED THE LAW. CRC never reveals to the program under investigation the identity of the person who filed the complaint, unless the complainant first gave CRC written permission to do so.

The FREEDOM OF INFORMATION ACT (FOIA) gives the public maximum access to Federal government files and records. Persons can request and receive information from many types of records kept by the Federal government-not just materials that apply to them personally. The Civil Rights Center must honor most requests for information submitted under FOIA, but there are exceptions.

- CRC is usually not required to release information during an investigation or an enforcement proceeding if that release would limit CRC's ability to do its job effectively; and
- CRC can refuse to disclose information if release would result in a "clearly unwarranted invasion" of a person's privacy.

PLEASE READ AND SIGN SECTION A OR SECTION B OF THE CONSENT FORM PRINTED ON THE BACK OF THIS NOTICE, AND RETURN IT TO THE CIVIL RIGHTS CENTER WITH YOUR SIGNED COMPLETED COMPLAINT INFORMATION FORM.

CONSENT FORM

I have read the Notice about Investigatory Uses of Personal Information, printed on the front of this form. I understand the following provisions of the Privacy Act and Freedom of Information Act, which apply to personal information I reveal to the Civil Rights Center in connection with my complaint:

In the course of investigating my complaint, CRC may have to reveal my identity to staff of the program named in my complaint in order to obtain facts and evidence regarding my complaint;

I do not have to reveal any personal information to CRC, but CRC may close my complaint if I refuse to reveal information needed to fully investigate my complaint;

I may request and receive a copy of any personal information CRC keeps in my complaint file for investigatory uses; and

Under certain conditions, CRC may be required by the Freedom of Information Act to reveal to others personal information I have provided in connection with my complaint.

SECTION A

☒ YES, CRC MAY DISCLOSE MY IDENTITY IF NECESSARY TO INVESTIGATE MY COMPLAINT. I have read and understand the notice, and I consent for CRC to disclose my identity during investigation of my complaint.

(Signature) Joan Daniel

(Date) 12/17/2015

SECTION B

☐ NO, CRC MAY NOT DISCLOSE MY IDENTITY, EVEN IF NECESSARY TO PROCESS MY COMPLAINT. I have read and understand the notice, and I do not consent for CRC to disclose my identity during investigation on of my complaint. I request that CRC process my complaint, however, I understand that CRC may cancel my complaint if it cannot fully investigate without disclosing my identity. I also understand CRC may close my complaint if it cannot begin an investigation because I have not consented for CRC to reveal my identity.

(Signature)

(Date)

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number. Completing this form is voluntary; however, the requested information must be provided in order to file a complaint of discrimination. The Department of Labor's Civil Rights Center will use the information to investigate your complaint of discrimination. The estimated average response time to complete this form is 15 minutes per response. Send comments regarding this estimate or any other aspects of this collection of information to the U.S. Department of Labor, Office of the Assistant Secretary for Administration and Management, Civil Rights Center, Room N-4123, Washington, D.C. 20210. Please reference OMB control number 1225-0077.